

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Southwest Power Pool, Inc.

Docket No. ER06-451-019

ORDER DENYING REHEARING

(Issued July 6, 2007)

1. In this order, the Commission addresses Golden Spread Cooperative, Inc.'s (Golden Spread) request for rehearing of the Commission's January 26, 2007 Order¹ that accepted Southwest Power Pool, Inc.'s (SPP) market readiness certification related to its energy imbalance service market (imbalance market). As discussed below, the Commission denies Golden Spread's request for rehearing.

I. Background

2. SPP has been authorized as a regional transmission organization (RTO) since October 1, 2004.² The Commission accepted SPP's commitment to develop an imbalance market, including implementation of a real-time, offer-based energy market that will be used to calculate the price of imbalance energy.³ On February 1, 2007, SPP launched its imbalance market and began dispatching wholesale electricity within its region.

¹ *Southwest Power Pool, Inc.*, 118 FERC ¶ 61,055 (2007) (*Certification Order*).

² *Southwest Power Pool, Inc.*, 109 FERC ¶ 61,009 (2004), *order on reh'g*, 110 FERC ¶ 61,137 (2005).

³ *Southwest Power Pool, Inc.*, 106 FERC ¶ 61,110, at P 134, *order on reh'g*, 109 FERC ¶ 61,010 (2004).

3. Prior to SPP market start-up, among other things, the Commission directed SPP to certify its market readiness no later than thirty days prior to its market start-up.⁴ On December 22, 2006, SPP submitted a market readiness certification in which SPP confirmed that it was ready to implement the SPP imbalance market on February 1, 2007 (Certification Filing).⁵ In the *Certification Order*, the Commission accepted SPP's market readiness certification based on SPP's representation of its readiness and its compliance with the requirement of the Commission's previous orders.⁶

II. Rehearing Request

4. On February 26, 2006, Golden Spread filed a request for rehearing of the *Certification Order*. Golden Spread argues that the Commission erred by accepting SPP's Certification Filing. It argues that: (1) SPP failed to successfully complete market tests; (2) SPP lacked a functional backup operations facility; (3) operation of SPP's curtailment adjustment tool (CAT) will unduly interfere with non-firm bilateral transactions, thereby interfering with the ability of customers to reduce their dependence on the imbalance market; and (4) rates charged to customers in the imbalance market will not be on file with the Commission, in violation of section 205 of the Federal Power Act (FPA).⁷

III. Discussion

5. In the *Certification Order*, based on SPP's representation in its Certification Filing, the Commission found that SPP had complied with the requirements of the Commission's prior orders and, therefore, accepted SPP's Certification Filing for market

⁴ *Southwest Power Pool, Inc.*, 114 FERC ¶ 61,289 (2006) (*SPP Market Order*), *order on reh'g*, 116 FERC ¶ 61,289 (2006), *appeal docketed*, *Southwest Industrial Customer Coalition et al. v. FERC* (D.C. Cir. Nos. 06-1390 *et al.*, Nov. 27, 2006).

⁵ SPP's December 22, 2006 filing included: (1) the readiness certification of SPP's President and Chief Executive Officer, Nicholas A. Brown; (2) a NERC evaluation and recommendation concerning SPP's market readiness (NERC Assessment); (3) an independent report by Gestalt, LLC (Gestalt Report) assessing SPP's market readiness metrics; and (4) an updated transition and reversion plan.

⁶ *Certification Order*, 118 FERC ¶ 61,055 at P 1, 4.

⁷ 16 U.S.C. § 824d(c) (2000).

start-up. As discussed below, we affirm our findings in the *Certification Order* and find that Golden Spread raises no new arguments regarding the implementation of the SPP imbalance market. Accordingly, we deny Golden Spread's request for rehearing.

A. Market Tests

6. Golden Spread argues that the Commission erred by accepting SPP's Certification Filing when SPP had not completed all its market tests. Golden Spread states that SPP admitted that it was unable to complete some system changes and that it was unable to use final versions of all software.⁸ Golden Spread asserts that, because no testing was done to ascertain the success of the changes, it remains uncertain whether those changes were made successfully. It contends that there is a possibility that problems with the imbalance market software may surface to the detriment of the participants in that market.⁹

7. Additionally, Golden Spread contends that the Commission permitted SPP to start its imbalance market despite SPP's inability to assure that contingencies that result in unjust and unreasonable rates will not recur after market implementation. Golden Spread states that the Commission ignored a series of unanticipated contingencies that occurred during SPP's first full day of deployment test on January 11 and 12, 2007.¹⁰ According to Golden Spread, these contingencies resulted in flows across certain SPP-Southwestern Public Service Company (SPS) ties exceeding their 487 MW voltage stability rating by approximately 123 MW, thereby jeopardizing system reliability and raising the Locational Imbalance Price (LIP) for Golden Spread. Golden Spread argues that the Commission's only finding regarding this contingency was to claim that SPP's quick response supports its position that SPP can effectively manage its system.¹¹ Golden Spread argues that such a finding is contrary to the FPA, which requires the Commission to determine whether all rates charged are just and reasonable, not how quickly unjust rates are lowered.

1. Commission Determination

8. In the *Certification Order*, the Commission found that SPP was ready to implement its imbalance market on February 1, 2007 because SPP indicated that it had

⁸ Golden Spread Rehearing Request at 2.

⁹ *Id.*

¹⁰ *Id.* at 3.

¹¹ *Id.* at 3, citing *Certification Order*, 118 FERC ¶ 61,055 at P 19.

made operational the necessary systems for market start-up, conducted numerous tests and certified that testing and other issues will be addressed prior to market start.¹² In the Certification Filing, SPP's President and Chief Executive Officer, Mr. Brown, certified SPP's operational readiness based on, among other things, SPP's market testing of its various systems.¹³ Additionally, an evaluation by the North American Electric Reliability Corporation (NERC) Operating Reliability Subcommittee reported that SPP was ready, from a reliability perspective, to commence its market operations.¹⁴ Moreover, the Gestalt Report, an independent report requested by SPP members to assess SPP's market readiness, concluded that SPP's systems have demonstrated consistently stable operation over their last observation period.¹⁵ Based on these representations, the Commission concluded that SPP was ready to start its market. Further, we were unconvinced that a delay in SPP's market start was necessary given SPP's commitment to make its final decision to go live in consultation with a Go/No-Go Advisory Team.¹⁶

9. In terms of completing market tests, SPP certified to the Commission that it had tested its market operations and settlement systems through 21 deployment tests. While additional testing may have resulted in additional market operation experience, SPP was only required to "substantially complete the items in its market readiness metrics" including performance metrics for system tests.¹⁷ Therefore, the Commission found that by substantially completing market readiness metrics, SPP had satisfied the Commission's requirement for market readiness. While it is true that problems with system software may surface in the future, we are unconvinced that this speculative

¹² *Id.* P 13, 18.

¹³ *Id.* P 7.

¹⁴ *Id.*

¹⁵ *Id.* P 13.

¹⁶ *Id.* P 14. The Go/No-Go Advisory Team was established to review operational conditions and status of transition activities through a series of pre-launch assessment in the days and weeks before market start-up. *Id.*

¹⁷ *SPP Market Order*, 114 FERC ¶ 61,289 at P 23. This requirement was consistent with the requirement imposed on the Midwest Independent Transmission System Operator (Midwest ISO) in its market readiness certification. *Midwest Independent Transmission System Operator*, 110 FERC ¶ 61,289, at P 12 (2005).

possibility is sufficient to prevent the market from delivering the benefits of its design.¹⁸ Moreover, we found SPP's imbalance market mechanism, including market monitoring and market mitigation plans to result in just and reasonable rates and Golden Spread has presented no evidence to the contrary.¹⁹

10. Further, in regard to the contingency problem that Golden Spread raises in its rehearing request, we disagree that the Commission erred in accepting SPP's certification "despite SPP's inability to assure that the same contingencies . . . will not recur after market implementation."²⁰ We find that it would be unreasonable to conclude that SPP could prevent any and all contingencies from occurring given the dynamic nature of the electric system. Instead, the Commission concluded that SPP possessed the knowledge and systems capability to bring the system back to a reliable state. This was demonstrated when SPP quickly responded to the contingency at issue and effectively managed its system.²¹ Therefore, we affirm the Commission's finding and deny rehearing on this issue.

B. Backup Facility

11. Golden Spread argues that unlike every other energy market, *i.e.*, Electric Reliability of Texas, Midwest ISO, and PJM Interconnection, SPP was permitted to start its market without a backup facility.²² Golden Spread states that in the event of a condition that renders SPP's main facility unable to function, there is no backup facility to ensure reliability. Although SPP's backup facility is under construction, Golden Spread contends that this is insufficient because it will not be ready until the fall. Golden

¹⁸ Charles River Associates cost-benefit study completed for the Regional State Committee on July 27, 2005 showed aggregate trade benefits of \$614 million and net benefits of \$373 million over a 10-year period to SPP's transmission owners. SPP Cost-Benefit Analysis Performed for the SPP Regional State Committee, Final Report, April 23, 2005 (revised July 27, 2005).

¹⁹ *SPP Market Order*, 114 FERC ¶ 61,289 at P 203.

²⁰ Golden Spread Rehearing Request at 3.

²¹ *Certification Order*, 118 FERC ¶ 61,055 at P 19.

²² Golden Spread Rehearing Request at 4.

Spread argues that the Commission failed to explain why it permitted SPP to start its market without a backup facility and therefore failed to engage in reasoned decision making.²³

1. Commission Determination

12. In the *Certification Order*, the Commission accepted SPP's updated transition and reversion plan, which outlined the actions necessary in the event of a market system failure and declined to delay market implementation for lack of a backup operations facility.²⁴ The Commission noted that while SPP did not have backup computer system capability, it did have a backup operations facility for reliability purposes. In addition, the Commission explained that SPP was in the process of constructing a new facility and that as a precaution, the Commission directed SPP to maintain and update its reversion plan until it established its new facility.²⁵ The Commission found this sufficient to permit SPP to initiate market operations, and Golden Spread's arguments on rehearing do not persuade us to change that finding. Therefore, we deny rehearing on this issue.

C. SPP's Curtailment Adjustment Tool

13. Golden Spread argues that SPP's CAT will unduly interfere with non-firm bilateral transactions and thereby interfere with the ability of customers to reduce their dependence on the imbalance market. Golden Spread states that by limiting bilateral transactions, wholesale customers will have to depend on the imbalance market for an increasing share of the supplies their customers need.²⁶ It argues that this is significant for Golden Spread because it is located in the electrically isolated control area of SPS and as such is likely to be subjected to frequent transmission constraints. Golden Spread asserts that the Commission made assurances in prior orders that customers would be able to limit their exposure to the imbalance market during times when imbalances occur and the market is presumed uncompetitive.²⁷ Contrary to such assurance, Golden Spread contends that the Commission permitted SPP to implement its market with features that

²³ *Id.*

²⁴ *Certification Order*, 118 FERC ¶ 61,055 at P 21.

²⁵ *Id.*

²⁶ Golden Spread Rehearing Request at 4-5. Golden Spread also asserts that it raised this issue in its January 8, 2007 protest to SPP's certification filing but was not properly addressed by the Commission.

²⁷ *Id.* at 5, citing *Southwest Power Pool, Inc.*, 116 FERC ¶ 61,289, at P 22 (2006).

limit the ability of load serving entities to rely on resources other than the imbalance market. Therefore, it requests the Commission to grant rehearing and either provide an adequate explanation or provide a realistic alternative to reliance on the market.²⁸

1. Commission Determination

14. In the *Certification Order*, the Commission addressed Golden Spread's concerns regarding SPP's CAT and directed SPP to report on revenue shortfalls and surpluses resulting from the imbalance market operation.²⁹ In SPP's imbalance market, transmission customers are able to obtain non-firm schedules to the extent that there is available transmission not being used by firm schedules. If, in fact, SPP's CAT is not making significant amounts of unscheduled transmission available to non-firm customers, SPP should see an over collection of congestion revenues from the market dispatch resulting in uplift paid to market participants.³⁰ Further, Golden Spread did not provide any additional information as to why it believes the imbalance market will reduce the ability of market participants to submit non-firm schedules or any evidence that Golden Spread, in fact, is now unable to submit non-firm schedules when prior to the market start-up, transmission capacity for non-firm schedules was available. Accordingly, we deny Golden Spread's rehearing request on this issue.

D. SPP's Rates

15. Golden Spread argues that in violation of section 205 of the FPA, SPP's rates charged to customers in the imbalance market are not on file with the Commission.³¹ For example, Golden Spread states that the SPP's algorithm for calculating the LIP is in proprietary software supplied to SPP by one of its vendors. Thus, the code behind the software and the formula for calculating the LIP are not available to customers.³² Golden Spread asserts that in other cases where the Commission approves a formula rate, the customers are able to calculate the actual rates because customers have access to the

²⁸ *Id.* at 6.

²⁹ *Certification Order*, 118 FERC ¶ 61,055 at P 23.

³⁰ For example, In SPP's June 18, 2007 compliance filing, which included a report on uplift charges, SPP showed that on average, in May, there was less than \$12,000 per day in over-collection from the energy imbalance service and on only three days there was an over-collection of greater than \$100,000. *Id.*

³¹ Golden Spread Rehearing Request at 6-7.

³² *Id.* at 6.

formula and the data inputs. However, in the SPP imbalance market, according to Golden Spread the formula is hidden within proprietary software and customers have no access to the specific formula that produced the calculation of their bills. Further, Golden Spread argues that because the identity of the seller is unknown in most transactions, it is difficult to determine whether the seller has market power.³³ It adds that a seller's identity must be available to determine whether the seller is pivotal, and whether the seller has dominant position and/or the ability to facilitate coordinated interaction with other sellers. For these reasons, it argues that the Commission erred in accepting SPP's certification where SPP's rates are neither predictable nor transparent, in violation of the FPA.³⁴

1. Commission Determination

16. While SPP's LIP formula in the imbalance market is different from traditional formula rates, it is similar in the level of detail to the Locational Marginal Price (LMP) formulae contained in other RTO tariffs.³⁵ In the *SPP Market Order*, the Commission determined that SPP's LIP formula was sufficient to meet the Commission's formula rate requirement.³⁶ Therefore, we find Golden Spread's arguments regarding the LIP formula to be untimely and inappropriate for this proceeding. Golden Spread did not request a rehearing or a clarification on this issue within 30 days of the *SPP Market Order*. Therefore, we deny rehearing on this issue.³⁷

³³ *Id* at 8.

³⁴ *Id.* at 7.

³⁵ *SPP Market Order*, 114 FERC ¶ 61,289 at P 72 and n. 62.

³⁶ *Id.* P 72.

³⁷ If Golden Spread or other interested parties perceive that the algorithm is not functioning correctly to implement the LIP procedure in SPP's tariff, SPP shall work with interested parties to reach an agreement regarding what information will be made available to market participants. To the extent that some information is considered proprietary to the software vendor, SPP may require entities obtaining information to sign confidentiality agreements that prohibit transfer of this information or prohibit its use for other purposes. *See, e.g., New England Power Pool*, 87 FERC ¶ 61,045, at 61,194 (1999) and *PJM Interconnection, LLC*, 87 FERC ¶ 61,054, at 61,219 (1999).

The Commission orders:

(A) The request for rehearing is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.